

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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**MEMO ENDORSED**

PARK B. SMITH, INC.,

Plaintiff,

v.

CHF INDUSTRIES, INC.,

Defendant.

Case No. 06 CV 869 (LMM) (JCF)

*Granted. So or-  
dered.  
LMM 5/13/09*

**NOTICE OF MOTION AND UNOPPOSED MOTION  
OF DEFENDANT CHF INDUSTRIES, INC. TO REINSTATE  
COUNTERCLAIMS DISMISSED WITHOUT PREJUDICE**

PLEASE TAKE NOTICE that Defendant CHF Industries, Inc. ("CHF"), by its attorneys, will move this Court before the Honorable Lawrence M. McKenna, at a date to be determined, in the United States District Court for the Southern District of New York, for an order reinstating the First through Fifth counterclaims set forth in the Answer and Counterclaims of Defendant CHF Industries, Inc. to Plaintiff Park B. Smith, Inc.'s Complaint and Jury Demand. The motion is based upon the accompanying MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT CHF INDUSTRIES, INC.'S UNOPPOSED MOTION TO REINSTATE COUNTERCLAIMS DISMISSED WITHOUT PREJUDICE filed herewith (hereinafter "MEMORANDUM") and, as

shown in the accompanying MEMORANDUM and supporting exhibits, is unopposed by Plaintiff Park B. Smith, Inc..

New York, New York  
Dated: May 12, 2009

Respectfully submitted,

**CONNOLLY BOVE LODGE & HUTZ LLP**  
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*Attorneys for Defendant CHF Industries, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2009, I electronically filed a copy of the foregoing document using the United States District Court, Southern District of New York's electronic filing system, which will send electronic notice to all parties and thereby constitute service in accordance with Local Civil Rule 5.2.



Catherine Sadler